

Notice of Allowability

Application No.

09/806,704

Examiner

Stephen Yam

Applicant(s)

PALME ET AL.

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address--

All claims being allowable, PROSECUTION ON THE MERITS IS (OR REMAINS) CLOSED in this application. If not included herewith (or previously mailed), a Notice of Allowance (PTOL-85) or other appropriate communication will be mailed in due course. **THIS NOTICE OF ALLOWABILITY IS NOT A GRANT OF PATENT RIGHTS.** This application is subject to withdrawal from issue at the initiative of the Office or upon petition by the applicant. See 37 CFR 1.313 and MPEP 1308.

1. ☒ This communication is responsive to June 10, 2005.
2. ☒ The allowed claim(s) is/are 41, 42, 45-48 and 52-67.
3. ☒ The drawings filed on 07 April 2003 are accepted by the Examiner.
4. ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
 - a) ☒ All b) ☐ Some* c) ☐ None of the:
 1. ☒ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☒ Copies of the certified copies of the priority documents have been received in this national stage application from the International Bureau (PCT Rule 17.2(a)).
 - * Certified copies not received: _____.

Applicant has THREE MONTHS FROM THE "MAILING DATE" of this communication to file a reply complying with the requirements noted below. Failure to timely comply will result in ABANDONMENT of this application.
THIS THREE-MONTH PERIOD IS NOT EXTENDABLE.

5. ☐ A SUBSTITUTE OATH OR DECLARATION must be submitted. Note the attached EXAMINER'S AMENDMENT or NOTICE OF INFORMAL PATENT APPLICATION (PTO-152) which gives reason(s) why the oath or declaration is deficient.
6. ☐ CORRECTED DRAWINGS (as "replacement sheets") must be submitted.
 - (a) ☐ including changes required by the Notice of Draftsperson's Patent Drawing Review (PTO-948) attached
 - 1) ☐ hereto or 2) ☐ to Paper No./Mail Date _____.
 - (b) ☐ including changes required by the attached Examiner's Amendment / Comment or in the Office action of Paper No./Mail Date _____.

Identifying indicia such as the application number (see 37 CFR 1.84(c)) should be written on the drawings in the front (not the back) of each sheet. Replacement sheet(s) should be labeled as such in the header according to 37 CFR 1.121(d).
7. ☐ DEPOSIT OF and/or INFORMATION about the deposit of BIOLOGICAL MATERIAL must be submitted. Note the attached Examiner's comment regarding REQUIREMENT FOR THE DEPOSIT OF BIOLOGICAL MATERIAL.

Attachment(s)

1. ☐ Notice of References Cited (PTO-892)
2. ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3. ☒ Information Disclosure Statements (PTO-1449 or PTO/SB/08),
Paper No./Mail Date 0405
4. ☐ Examiner's Comment Regarding Requirement for Deposit
of Biological Material
5. ☐ Notice of Informal Patent Application (PTO-152)
6. ☐ Interview Summary (PTO-413),
Paper No./Mail Date _____
7. ☐ Examiner's Amendment/Comment
8. ☒ Examiner's Statement of Reasons for Allowance
9. ☐ Other _____

REASONS FOR ALLOWANCE

1. Claims 41, 42, 45-48, and 52-67 are allowed over the prior art of record.

2. The following is an examiner's statement of reasons for allowance:

Regarding Claims 41, 42, and 60-67, the invention as claimed, specifically in combination with a DWDM performance monitoring system with an optical signal comprising an optical signal and a tunable reference optical signal, dividing the optical signal into orthogonal polarized beams and combining them to form a single combined beam, with means for processing an electrical signal from an optical signal converting means to determine the performance of the DWDM multi-wavelength system at the particular wavelength and for controlling the converting means so that each particular wavelength of the DWDM multi-wavelength system is processed., is not disclosed or made obvious by the prior art of record.

Regarding Claims 45-48 and 52-59, the invention as claimed, specifically in combination with a DWDM multi-wavelength system with a beam deflection system with a movable grating selecting a particular wavelength portion of an input beam, the beam deflection system in a combined array according to Ebert and Fastie, wherein a combined array according to Ebert and Fastie contains an "in-plane" arrangement according to Ebert where the input slit and output slit are on the same plane as the grating grooves, and the reflecting element is positioned in parallel to the plane of the grating (as stated by Applicant's arguments filed October 25, 2004, page 12), and an "out-of-plane" arrangement according to Fastie where the grating is no longer on the same plane as the slits, but is moved towards the reflecting element (as stated by Applicant's arguments filed October 25, 2004, page 12), wherein the optical signal first passes through the

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arrangement according to Ebert and then according to Fastie, or vice versa, (as stated by Applicant's arguments filed October 25, 2004, page 12) and wherein a combined array according to Ebert and Fastie is different from an Ebert-Fastie array (as stated by Applicant's arguments filed October 25, 2004, page 12), is not disclosed or made obvious by the prior art of record.

Any comments considered necessary by applicant must be submitted no later than the payment of the issue fee and, to avoid processing delays, should preferably accompany the issue fee. Such submissions should be clearly labeled "Comments on Statement of Reasons for Allowance."

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Any inquiry concerning this communication or earlier communications from the examiner should be directed to Stephen Yam whose telephone number is (571)272-2449. The examiner can normally be reached on Monday-Friday 8:30am-5pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, David Porta can be reached on (571)272-2444. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

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